

MANDATE

05-11291
USDC-MABO
J. GERTNER

**United States Court of Appeals
For the First Circuit**

No. 05-2701
2006 MAY 25 AGL: 5b
FILED IN CLERKS OFFICE
US COURT OF APPEALS
FOR THE FIRST CIRCUIT

BASIL WILLIAMS,
Petitioner, Appellant,
v.

UNITED STATES,
Respondent, Appellee.

Before
Torruella, Circuit Judge,
Stahl, Senior Circuit Judge,
and Lipez, Circuit Judge.

JUDGMENT

Entered: April 3, 2006

Section 2255 of Title 28 of the United States Code is the exclusive remedy for sentencing errors in the federal district courts. See Rogers v. United States, 180 F.3d 348, 357 n.15 (1st Cir. 1999). Therefore, the district court properly dismissed appellant's motion brought under a variety of inapplicable statutes.

Because appellant was not given the warning required under Castro v. United States, 540 U.S. 375 (2003), the judgment below will not be considered to pertain to a motion under 28 U.S.C. § 2255. "[A]n unwarned recharacterization cannot count as a § 2255 motion for purposes of the 'second or successive' provision...." 540 U.S. at 384.

Petitioner's request to proceed in forma pauperis is denied.

The request for a certificate of appealability is denied.

**Certified and Issued as Mandate
under Fed. R. App. P. 41.**

Richard Cushing Donovan, Clerk


Deputy Clerk

Date: 5/25/06

By the Court:

Richard Cushing Donovan, Clerk.

By: MARGARET CARTER
Chief Deputy Clerk.

[cc: Patrick M. Hamilton, AUSA, Dina Michael Chaitowitz, AUSA,
Ted Heinrich, AUSA, Basil C. Williams]